

Appl. No. 09/342,719
Docket No. 7590Q
Amdt. dated June 14, 2007
Reply to Office Action mailed on April 19, 2007
Customer No. 27752

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REMARKS

Claim Status

Claims 28-32, 34-37, 40-44, 47, 48, and 58-60 are pending in the present application. Claim 28 is amended herein. No additional claims fee is believed to be due.

Objection to the Specification

In the Office action, the amendment filed January 26, 2007 is objected to under 35 U.S.C. § 132(a) as introducing new matter into the disclosure. In particular, it is asserted that the combination of a disposable article to be worn and a diaper is not disclosed in the instant specification.

In the prior filed amendment of January 26, 2007, claim 28 was amended to provide additional clarity to the structural relationship between the elements recited therein. However, claim 28 was not amended to recite a combination of a disposable article to be worn and a diaper. (emphasis added). Instead, claim 28 was amended to recite "a disposable article adapted to be worn by a wearer" comprising, among other elements, a diaper. (emphasis added). To provide additional clarity to present claim language, claim 28 is amended herein to recite the word "and" on line 5 of claim 28. Thus, it is respectfully submitted that, for at least the reasons discussed above, the amendment of January 26, 2007 does not introduce new matter.

Therefore, it is believed that the specification is not objectionable under 35 U.S.C. § 132(a), and such indication is respectfully requested.

Rejections under 35 U.S.C. § 112

In the Office action, claims 28-32, 34-37, 40-44 and 47-48 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Office action asserts that the present claims disclose both a disposable article adapted to be worn by wearer and a diaper comprising a responsive system, and that the combination of a disposable article and a diaper are considered new matter.

As discussed above, claim 28 was previously amended to provide additional clarity to the structural relationship between the elements recited therein. However, claim

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28 was not amended to recite a combination of a disposable article to be worn and a diaper. (emphasis added). Instead, claim 28 was amended to recite "a disposable article adapted to be worn by a wearer" comprising, among other elements, a diaper. (emphasis added). As mentioned above, claim 28 is amended herein to recite the word "and" on line 5 of claim 28. As such, the recitation of claim 28 does not introduce new matter.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claim 28 is patentable under 35 U.S.C. § 112. Claims 29-32, 34-37, 40-44 and 47-48 depend from and include all the limitations of claim 28. As such, for at least the same reasons discussed above with reference to claim 28, claims 29-32, 34-37, 40-44 and 47-48 are also patentable under 35 U.S.C. § 112.

Therefore, it is believed that claims 28-32, 34-37, 40-44 and 47-48 are in form for allowance and such indication is respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Hashimoto et al.

Claims 28-32 and 58 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,681,297 issued to Hashimoto et al. (hereinafter "Hashimoto"). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See MPEP § 2143). It is respectfully submitted that the Office action does not establish a prima facie case of obviousness, because Hashimoto does not teach or suggest all the claim limitations recited in independent claims 28 and 58.

Hashimoto discloses a device for disposing excrement, referred to therein as a "diaper cup," which is connected to external facilities (e.g. vacuum motor housing, water tank, pump, valves) through a plurality of hoses (See Col. 2, ll. 1-12; Col. 4, ll. 17-42; and Fig. 2). The diaper cup is also equipped with a nozzle 108a for washing the pubic region, a nozzle 108b for washing the anus, and snapping hooks that permit exchangeable diapers to be put on and taken off the diaper cup. (See Col. 3, ll. 42-53).

Independent claims 28 and 58 recite diapers comprise "a responsive system including a sensor and an actuator," and the actuator "being adapted to deliver said one or more compositions to at least a portion of said fecal waste excreted from said wearer when the sensor detects the input." The Office action characterizes the nozzle 108b of Hashimoto as the actuator recited in claims 28 and 58. The nozzles 108a and 108b of the

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diaper cup are connected to external facilities, including at least a valve, a water pump, and a water tank. The nozzles do not work alone to deliver washing water to the wearer, but rather work in conjunction with external facilities that include at least a hose, a valve, a water pump, and a water tank. As such, Hashimoto does not teach or suggest a diaper comprising a responsive system including an actuator, as recited in claims 28 and 58. (emphasis added). Accordingly, Hashimoto does not teach or suggest all the claim limitations recited in claims 28 and 58.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claims 28 and 58 are patentable under 35 U.S.C. § 103(a) over Hashimoto. Claims 29-32 depend from and include all the limitations of claim 28. As such, for at least the same reasons discussed above with reference to claim 28, claims 29-32 are also patentable under 35 U.S.C. § 103(a) over Hashimoto.

Therefore, it is believed that claims 28-32 and 58 are in form for allowance and such indication is respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Hashimoto et al. in view of Jones et al.

Claims 34-37, 40-44, 47, 48, 59, and 60 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto in view of U.S. Patent No. 5,482,714 issued to Jones et al. (hereinafter "Jones").

It is respectfully submitted that Jones does not correct the deficiencies of Hashimoto discussed above. As such, independent claims 28 and 58 are patentable under 35 U.S.C. § 103(a) over Hashimoto in view of Jones. Claims 34-37, 40-44, 47, and 48 depend from and include all the limitations of claim 28, and claims 59 and 60 depend from and include all the limitations of claim 58. Thus, for at least the same reasons discussed above with reference to claims 28 and 58, claims 34-37, 40-44, 47, 48, 59, and 60 are also patentable under 35 U.S.C. § 103(a) over Hashimoto in view of Jones.

Therefore, it is believed that claims 34-37, 40-44, 47, 48, 59, and 60 are in form for allowance and such indication is respectfully requested.

Conclusion

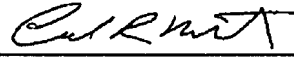
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In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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